

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

24 2009

CLERK, U.S. DISTRICT COURT
By _____ Deputy

DEBORAH WESTBROOK,

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Plaintiff,

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VS.

§ NO. 4:09-CV-699-A

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Plaintiff, Deborah Westbrook, initiated the above-captioned action by the filing of a handwritten, one-paragraph complaint on July 8, 2009. The nature of plaintiff's claim was unclear from the wording of her complaint. In July 2009, the Magistrate Judge to whom the case had been referred required plaintiff to answer a questionnaire providing specificity as to the nature of her claim. Plaintiff responded to the questionnaire in late August 2009. At the same time, she filed a motion to amend her complaint.¹

¹The court is treating plaintiff's motion to amend her complaint as the filing of an amended complaint.

Plaintiff's answer to the questionnaire and the allegations in her amended complaint disclose that plaintiff is complaining of (a) the manner in which State Probate Court Judge Steve M. King conducted a probate proceeding, (b) the way the attorneys with the firm of Moseley, Moseley & Moseley conducted themselves in advance of and during the course of that proceeding, and (c) the rulings Judge King made at the conclusion of the proceeding.

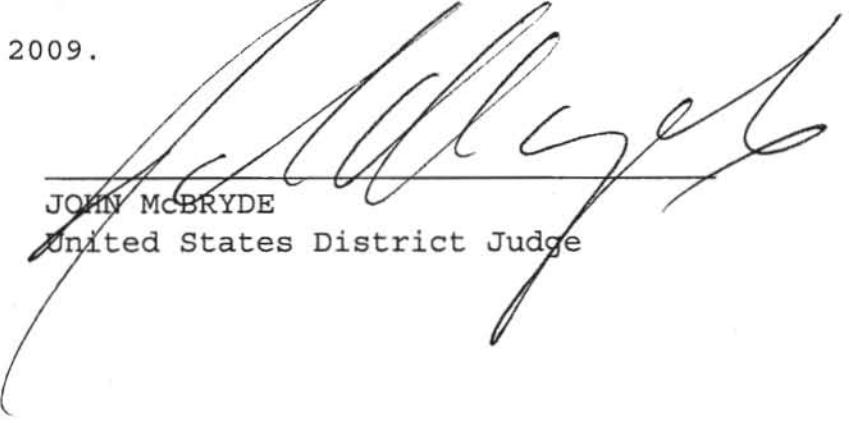
Because plaintiff is proceeding in forma pauperis, her complaint is subject to sua sponte dismissal under 28 U.S.C. § 1915(e)(2)(B). Section 1915(e)(2)(B) provides for sua sponte dismissal if the court finds that the complaint is either frivolous or fails to state a claim upon which relief may be granted. A claim is frivolous if it "lacks an arguable basis in either fact or law." Neitzke v. Williams, 490 U.S. 319, 325 (1989). A complaint fails to state a claim upon which relief can be granted when, assuming that all the allegations in the complaint are true even if doubtful in fact, such allegations fail to raise a right to relief above the speculative level. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 127 S. Ct. 1955, 1965 (2007) (internal quotation marks and citations omitted).

The court is unable to find any allegation in plaintiff's amended complaint that could form the basis for the court to

provide plaintiff any relief in this action. Judge King enjoys absolute immunity from claims such as plaintiff seems to be making against him. Even if that were not so, plaintiff does not allege any facts that would support a grant by this court against anyone of which she complains. The appearance is that plaintiff's claims are frivolous in the sense that they lack an arguable basis in either fact or law.

Therefore, the court ORDERS that all claims asserted by plaintiff in the above-captioned action be, and are hereby, dismissed under the authority of 28 U.S.C. § 1915(e)(2)(B).

SIGNED November 24, 2009.


JOHN McBRYDE
United States District Judge